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REPORT
101-528

SMALL COMMUNITIES ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE ACT OF 1990

OCTOBER 12 (legislative day, OCTOBER 2), 1990.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2184]

The Committee on Environment and Public Works, to which was referred the bill (S. 2184) to assist small communities in construction of facilities for the protection of the environment and human health, having considered the same, reports favorably thereon with an amendments and recommends that the bill as amended do pass.

The amendment follows:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.—(a) This Act may be cited as the "Small Community Environmental Assistance Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE

Sec. 101. Grants to States for establishment of small community environmental infrastructure revolving funds.
Sec. 102. Small community environmental infrastructure revolving funds.
Sec. 103. Intended use plan.
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TITLE II—ENVIRONMENTAL INFRASTRUCTURE FACILITIES FOR ECONOMICALLY DISTRESSED AREAS

Sec. 201. Administration.
Sec. 202. Eligible environmental infrastructure projects.
Sec. 203. State environmental infrastructure priority project plans.
Sec. 204. Economically distressed area environmental infrastructure assistance plan.
Sec. 205. Local cooperation agreements.
Sec. 206. Project design guidelines.
Sec. 207. Economically distressed area technical assistance and outreach.
Sec. 208. Authorization.

TITLE III—FINANCING OF PUBLICLY OWNED TREATMENT WORKS

Sec. 301. Financing of publicly owned treatment works.
Sec. 302. Authority of State revolving funds to guarantee local debt obligations.

FINDINGS

SEC. 2. FINDINGS.—The Congress finds that—

(1) small communities face special problems in providing for infrastructure facilities to protect the environment and human health, including sewage disposal, safe drinking water, and environmentally sound solid waste disposal;

(2) small communities often lack economies of scale necessary to provide an adequate financial base for construction and operation of environmental infrastructure facilities;

(3) small communities often have limited access to financial markets due to limited management capability and limited access to financial and technical services;

(4) the Environmental Protection Agency estimates that between 21 percent and 30 percent of small communities will have difficulty using revenue bonds for environmental infrastructure facilities because of limited financial resources;

(5) many small communities have not benefitted from existing environmental infrastructure financing and assistance programs of the Federal Government because such assistance programs are often focused on the largest environmental problems caused by larger municipalities (e.g., only 8 percent of the Federal sewage treatment plant grant funds have been devoted to small communities);

(6) existing Federal grant assistance programs for waste water treatment are being phased out in favor of State loan funds and some small communities will have limited access to such funds and some disadvantaged small communities may be unable to comply with pollution control requirements without grant assistance;

(7) residents of small communities often spend a larger portion of household income for environmental services than do residents of large communities;

(8) recent amendments to Federal environmental laws will require additional efforts by small communities to address environmental problems and devote a larger percentage of resources to this effort;

(9) the Environmental Protection Agency estimates that small community households may face an average increase of $170 for environmental user charges and fees as a result of new environmental requirements;

(10) many rural water supply systems are inadequate or insufficient to provide for existing and future needs and have deteriorated to the degree that a reliable supply of water is in jeopardy and large quantities of water are being or may be wasted;

(11) the National Council on Public Works Improvement recently concluded that "A national problem does exist for small water systems . . . and . . . these small water systems operate on a marginal basis, with inadequate financial resources to correct existing deficiencies. . ."

(12) the Environmental Protection Agency reports that small water systems serve 8 percent of the United States population, but account for over 90 percent of the violations of the Safe Drinking Water Act;

(13) the Environmental Protection Agency reports that 80 percent of the communities in violation of sewage treatment requirements are rural communities and that rural community sewage treatment needs exceed $28,000,000,000;

(14) it is essential that the Federal Government play a more active role in providing financial assistance to small communities for construction of environmental infrastructure facilities;

(15) it is essential that the Federal Government make a special effort to provide financial assistance, including grant assistance, to small communities which are economically disadvantaged; and

(16) it is essential that the Federal Government expand and strengthen technical assistance and outreach programs to assist small communities in complying with environmental requirements and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

PURPOSE

SEC. 3. PURPOSE.—The purposes of this Act are to—

(1) provide for the creation of State loan and grant funds to assist small communities in financing of wastewater treatment, drinking water, and solid waste disposal facilities and projects;

(2) direct the United States Army Corps of Engineers to construct essential wastewater treatment,

drinking water, and solid waste disposal facilities in economically distressed areas;

(3) to expand and strengthen Federal programs for providing technical assistance and outreach to small communities on issues relating to environmental protection and the construction operation, maintenance, and rehabilitation of environmental facilities and projects; and

(4) to clarify requirements with respect to publicly owned treatment works that have received grants pursuant to the Clean Water Act.

DEFINITIONS

SEC. 4. DEFINITIONS.—For the purposes of this Act—

(1) the term "Administrator" refers to the Administrator of the Environmental Protection Agency;

(2) the term "Secretary" means the Secretary of the Army;

(3) the term "State" has the same meaning as established in section 502(3) of the Federal Water Pollution Control Act;

(4) the term "wastewater treatment works" shall have the same meaning as established in section 212(2) of the Federal Water Pollution Control Act;

(5) the term "solid waste management facility" shall have the same meaning as that established in section 1004(29) of the Solid Waste Disposal Act;

(6) the term "sanitary landfill" shall have the same meaning as that established in section 1004(26) of the Solid Waste Disposal Act;

(7) the term "public water system" has the same meaning as that established in section 1401(4) of the Safe Drinking Water Act;

(8) the term "construction" has the same meaning as that established in section 1004(2) of the Solid Waste Disposal Act;

(9) the term "small community" refers to a municipality in which—

(A) the population is less than 2,500 individuals, as determined by the latest decennial census of the United States; or

(B) the environmental facility for which assistance is sought has fewer then one thousand service connections;

(10) the term "disadvantaged small community" refers to a small community in which the median household income of the residents of such community is less than 75 percent of the national median household income, as determined by the latest decennial census of the United States;

(11) the term "underground storage tank" has the same meaning as that established in section 9001(1) of the Solid Waste Disposal Act;

(12) the term "municipality" refers to a city, town, township, borough, county, parish, district, association, cooperative, or other public body created by or pursuant to State law;

(13) the term "economically distressed area" means—

(A) a county with—

(i) a per capita income that is less than or equal to 70 percent of the national average, as determined by the Bureau of Statistics, Department of Labor; and

(ii) an unemployment rate that is greater than or equal to 130 percent of the national average, as determined by such Bureau; and

(B) any Federal Indian reservation; and

(C) any colonia;

(14) the term "Federal Indian reservation" shall have the same meaning as that established in section 518(h)(1) of the Federal Water Pollution Control Act, as amended, except that such term shall include former reservations in the State of Oklahoma and village corporations established pursuant to the Alaskan Native Claims Settlement Act; and

(15) The term "colonia" means an organized settlement which, in the judgment of the Administrator, is generally lacking in drinking water, sewage treatment, and waste disposal facilities, and is within one hundred fifty miles of the United States border with Mexico.

TITLE I—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE

GRANTS TO STATES FOR ESTABLISHMENT OF SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVOLVING FUNDS

SEC. 101. (a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make grants to each State for the purpose of establishing a small community environmental infrastructure revolving fund.

(b) PURPOSE.—State small community environmental infrastructure revolving loan funds shall be available for providing financial assistance to small communities for—

(1) construction of waste-water treatment works;

(2) construction of public water systems;

(3) construction of solid waste management facilities; and

(4) assuring that undergound storage tanks which are owned and operated by small communities are in compliance with section 9003(c) of the Solid Waste Disposal Act, as amended.

(c) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State

under this title. Such schedule shall be based on the State's intended use plan under section 103 of this title, except that—

(1) such payments shall be made in cash in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

(d) FORMULA.—Sums authorized to be appropriated to carry out this section shall be allotted by the Administrator in accordance with a formula, established by the Administrator, which reflects the need for construction of facilities for wastewater treatment, drinking water supply, and solid waste disposal in small communities and the proportion of such need in each State in disadvantaged small communities.

(e) MINIMUM ALLOTMENT.—Notwithstanding any other provision of law, the Administrator shall ensure that each State receives a minimum allotment of not less than one percent of the funds appropriated pursuant to this title in each fiscal year.

(f) PERIOD OF AVAILABILITY FOR GRANT AWARD.—(1) Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

(2) The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (d) of this section. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVOLVING FUNDS

SEC. 102. (a) GENERAL RULE.—To receive grant funds made available under this Act, a State shall first establish a small community environmental infrastructure revolving fund which complies with the requirements of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State shall accept grant payments with funds to be made available under this Act in accordance with a payment schedule established pursuant to sec-

tion 101(c) of this Act and will deposit all such payments in the small community environmental infrastructure revolving fund established by the State in accordance with this Act;

(2) the State will deposit in the fund from State moneys an amount equal to at least 25 percent of the total amount of all grants which will be made to the State with funds to be made available under this Act on or before the date on which each quarterly grant payment will be made to the State under this Act;

(3) the State will enter into binding commitments with small communities to provide assistance in accordance with the requirements of this Act in an amount equal to 125 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4) all funds in the fund will be expended in an expeditious and timely manner;

(5) in addition to complying with the requirements of this Act, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(6) in carrying out the requirements of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(7) the State will require as a condition of making a loan or providing other assistance from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

(8) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 103(b) of this Act.

(c) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a small community environmental infrastructure revolving fund of a State under this section may be used only—

(1) to makes loans to small communities, on the condition that—

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 30 years;

(B) annual principal and interest payments will commence not later than 3 years after completion of a project and all loans will be fully amortized not later than 30 years after project completion;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the recipient of the loan agrees to repay the loan and the fund will be credited with all payments of principal and interest on all loans.

(2) to make grants to small communities, on the condition that—

(A) such grants do not exceed 75 percent of the costs of eligible projects; and

(B) the municipality receiving a grant is a disadvantaged small community.

(3) to guarantee, or purchase insurance for, small community obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to earn interest on fund accounts; and

(6) for the reasonable costs of administering the fund and conducting activities under this Act, except that such amounts shall not exceed 4 percent of the balance of such fund.

(d) ADMINISTRATION.—Each State loan fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate the fund in accordance with the requirements of this Act.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—(1) A State may provide financial assistance from its small community environmental infrastructure revolving fund only with respect to a wastewater treatment project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of the Federal Water Pollution Control Act.

(2) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a public water system which is approved by the chief executive officer of the State agency with primary enforcement authority pursuant to section 1413 of the Safe Drinking Water Act.

(3) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a solid waste management facility which is consistent with a plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

INTENDED USE PLAN

SEC. 103. (a)(1) IN GENERAL.—Prior to the beginning of each fiscal year, each State shall prepare and submit to the Administrator a plan identifying the intended uses of the amounts available to its small community environmental infrastructure revolving fund. Such intended use plan shall include, but not be limited to—

(A) a list of those projects for construction of wastewater treatment works, water supply systems, and

solid waste management infrastructure facilities which are pending;

(B) a description of the short- and long-term goals and objectives of the fund;

(C) information on the activities to be supported, including a description of project categories, terms of financial assistance, and communities served;

(D) assurances and specific proposals for meeting the requirements of subsection (b) of section 102 of this Act; and

(E) the criteria and method established for the allocation of funds to proposed projects.

(2) The Administrator shall review the plan developed pursuant to this subsection and shall not make grant payments pursuant to section 101 of this Act unless it is determined that such plan is consistent with the requirements and objectives of this Act.

(3) The State shall provide for public review and comment on the plan developed pursuant to this section.

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums in the fund, or $100,000, whichever amount is greater, to carry out planning and related activities pursuant to this section.

AUDITS, REPORTS, AND FISCAL CONTROLS

SEC. 104. (a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State electing to establish a small community environmental infrastructure revolving fund under this Act shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

(1) payments received by the fund;

(2) disbursements made by the fund; and

(3) fund balances at the beginning and end of the accounting period.

(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(c) ANNUAL REPORT.—Beginning 60 days after the end of the first fiscal year after the receipt of payments under this Act, the State shall submit an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year, as identified in the plan prepared for such year pursuant to subsection (a), including identification of loan and grant recipients, loan

and grant amounts, and terms and similar details on other forms of financial assistance provided from the fund.

(d) NONCOMPLIANCE.—(1) If the Administrator determines that a State has not complied with the requirements of this Act, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

(2) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of noncompliance under paragraph (1), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

(3) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate correction actions have been taken by the State within 12 months after the State is notified of noncompliance, the payments withheld from the State by the Administrator shall be made available for reallotment in accordance with the formula for allotment of funds under this Act.

SMALL COMMUNITY TECHNICAL ASSISTANCE AND OUTREACH

SEC. 105. (a) OFFICE OF SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE.—(1) The Administrator shall establish an Office of Small Community Environmental Infrastructure Assistance.

(2) FUNCTIONS.—The functions of the Office of Small Community Environmental Infrastructure Assistance shall be to—

(A) manage grants pursuant to subsection (b) of this section;

(B) manage and oversee the operation of State small community environmental infrastructure revolving funds;

(C) provide information and guidance to small communities in financial analysis, financial planning, and assessment of project feasibility;

(D) provide small communities with information and guidance concerning compliance with environmental protection requirements of Federal statutes;

(E) provide information and guidance to small communities on issues including regionalization of environmental infrastructure facilities, reform of existing rate structures, and operation of special management districts; and

(F) in cooperation with the Secretary, provide information and guidance to communities on issues relating to construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(b) SMALL COMMUNITY ASSISTANCE GRANTS.—(1) In implementation of the functions identified in subsection (a) the Office of Small Community Environmental Assistance may provide grants to appropriate State agencies and not-for-profit organizations, including organizations operating at a

multistate level to assist in the dissemination of information to small communities and to assist small communities in assessment of issues relating to financing of environmental infrastructure facilities, compliance with environmental laws and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(2) Grants pursuant to this section shall be in an amount determined by the Administrator and shall be matched by non-Federal funds in an amount equal to not less than 25 percent of the program cost in a given fiscal year.

(3) In awarding grants pursuant to this section the Administrator shall, to the fullest extent practicable, assure that communities in all States have access to assistance pursuant to this subsection, that award of grants is on a competitive basis, and that past performance of an applicant is considered in awarding future grants.

(4) Recipients of grants pursuant to this section shall provide such information as the Administrator deems appropriate in applications for grant assistance and in reports of program activities.

(c) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Administrator shall work with the Secretary of the Army, the Secretary of Agriculture, and other Federal agencies in the implementation of this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. (a) GENERAL AUTHORIZATION.—There is authorized to be appropriated to make grants pursuant to section 101 $200,000,000 for fiscal year 1992, $300,000,000 for fiscal year 1993, $500,000,000 for fiscal years 1994, 1995, and 1996.

(b) SET-ASIDE.—Of funds appropriated pursuant to this section, there shall be reserved for the implementation section 105(b) of this Act 2 percent of funds authorized pursuant to this section in fiscal year 1992, 1.5 percent of funds authorized in fiscal year 1993, and 1 percent of funds authorized in fiscal years 1994, 1995, and 1996.

TITLE II—ENVIRONMENTAL INFRASTRUCTURE FACILITIES FOR ECONOMICALLY DISTRESSED AREAS

ADMINISTRATION

SEC. 201. (a) AUTHORITY.—The Secretary shall act as the administrator of the authorities of this title.

(b) To implement the authorities of this title, there shall be established, within 180 days of the date of enactment of this title, an Office of Community Environmental Infrastructure Assistance within the Directorate of Civil Works of the Office of the Chief of Engineers.

ELIGIBLE ENVIRONMENTAL INFRASTRUCTURE PROJECTS

SEC. 202. (a) GENERAL ELIGIBILITY.—Funds provided for the implementation of this title shall be available for construction of—

(1) wastewater treatment works;

(2) public water systems; and

(3) solid waste management facilities.

(b) FINANCIAL CAPABILITY.—Funds provided for the implementation of this title shall be available only for environmental infrastructure projects located in an economically distressed area.

(c) COMMUNITY SIZE.—Funds provided for the implementation of this title shall be available only for environmental infrastructure projects serving less than 25,000 persons.

STATE ENVIRONMENTAL INFRASTRUCTURE PRIORITY PROJECT PLANS

SEC. 203. (a) GENERAL AUTHORITY.—The Governor of any State may submit to the Secretary a State Priority Project Plan pursuant to the requirements of this section.

(b) PLAN ELEMENTS.—A plan developed pursuant to this section shall include, at a minimum—

(1) a list of counties in the State qualified as economically distressed, including such information qualifying such areas as the Secretary determines to be necessary and appropriate;

(2) a list of specific environmental infrastructure projects eligible for financial assistance pursuant to this title including such information concerning the nature, benefits, costs, and expected long-term operations of the projects; and

(3) a list of eligible environmental infrastructure projects ranked in priority order for the fiscal year in which assistance is sought.

(c) REGULATIONS.—The Secretary shall establish by regulation such additional requirements for State Priority Project Plans as he determines to be appropriate and shall provide for public review and comment on such regulations.

ECONOMICALLY DISTRESSED AREA ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE PLAN

SEC. 204. (a) GENERAL AUTHORITY.—Within one year of the date of enactment of this title and annually thereafter, the Secretary shall develop and submit to the Congress a national Economically Distressed Area Environmental Infrastructure Assistance Plan for implementing projects eligible pursuant to this title.

(b) The plan required pursuant to this section shall include, at a minimum—

(1) a general description of the efforts of the Secretary to implement the provisions of this title in the preceding year;

(2) a list of all environmental infrastructure projects listed by States pursuant to paragraph 203(b)(3);

(3) a list of environmental infrastructure projects listed pursuant to paragraph (2) ranked in an order which, in the judgment of the Secretary, is consistent with the following criteria—

(A) the public health and environmental benefits to be accomplished by the project;

(B) the degree of financial hardship experienced by the community to be served by the project; and

(C) the ranking of the project pursuant to section 203(b)(3); and

(4) a status report of any projects in progress or under construction.

(c) VERIFICATION.—The Secretary may not list an environmental infrastructure project pursuant to paragraph (b)(3) if, in the judgment of the Secretary, the project does not meet the eligibility requirements of this title.

(d) COORDINATION.—The Secretary shall consult with the Administrator in the development of the plan required pursuant to this section.

LOCAL COOPERATION AGREEMENTS

SEC. 205. (a) GENERAL AUTHORITY.—The Secretary may, subject to the availability of funds pursuant to section 206 of this title, enter into local cooperation agreements to provide for the planning, design, and construction of environmental infrastructure projects listed pursuant to section 204(b)(3) of this title.

(b) REQUIREMENTS.—Each local cooperation agreement shall provide for—

(1) the payment of a local share of the total project of not less than 10 percent;

(2) the provision of necessary lands, easements, and rights of way owned or controlled by the local sponsor which may be part of the local contribution required by paragraph (1);

(3) the development of a facilities plan, including appropriate engineering plans and specifications, which is consistent with the project design guidelines developed pursuant to section 206; and

(4) such other arrangements as are deemed necessary by the Secretary for the timely completion of the project.

(c) NATIONAL PRIORITIES.—(1) The Secretary shall enter into local cooperation agreements giving first priority to environmental infrastructure projects ranked first pursuant to paragraph 204(b)(3).

(2) To the extent practicable, the Secretary shall assure that, in any given fiscal year, local cooperation agreements are signed for a project or projects from each State submitting a Priority Project Plan pursuant to section 203 of this title.

(d) PROJECT MANAGEMENT.—(1) Local cooperation agreements shall be signed by the local sponsor of such project, the proper representative of the State, and a designated representative of the Secretary, in consultation with a representative of the Administrator.

(2) In a case where these is a signed local cooperation agreement, the Secretary shall provide for construction of the project.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—Notwithstanding any other provision of law, the Secretary may not sign a local cooperation agreement under this title for any environmental infrastructure project which is—

(1) a wastewater treatment project which is inconsistent with plans developed under sections 205(j), 208, 303(e), 310 and 320 of the Federal Water Pollution Control Act;

(2) a public water system for which the project has not been approved by the chief executive officer of the agency with primary enforcement authority under the Safe Drinking Water Act; and

(3) a solid waste management facility which is inconsistent with the plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

PROJECT DESIGN GUIDELINES

SEC. 206. (a) GENERAL AUTHORITY.—The Administrator shall, within 24 months of the date of enactment of this title, publish guidelines for design of wastewater treatment, public water supply, and solid waste disposal facilities pursuant to this title.

(b) GUIDELINE CONTENTS.—Guidelines published pursuant to this section shall, at a minimum—

(1) describe the basic design standards to be applied in the planning of environmental infrastructure facilities;

(2) identify appropriate engineering specifications for construction of environmental infrastructure facilities based on an expected operational life of 20 years;

(3) establish such minimum standards of planning, engineering, design and construction as are deemed appropriate by the Administrator; and

(4) assure that any facility constructed will comply with all applicable Federal and State environmental laws.

(c) REVIEW AND REVISION.—The Administrator shall review and revise the guidelines published pusuant to this section not less often than every five years.

ECONOMICALLY DISTRESSED AREA TECHNICAL ASSISTANCE AND OUTREACH

SEC. 207. (a) OFFICE OF ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE.—(1) The Secretary shall establish an Office of Environmental Infrastructure Assistance.

(2) FUNCTIONS.—The functions of the Office of Environmental Infrastructure Assistance shall be to—

(A) manage projects pursuant to this title;

(B) provide information and guidance to economically distressed area communities in financial analysis, financial planning, and assessment of project feasibility;

(C) provide information and guidance to economically distressed area communities on issues including regionalization of environmental infrastructure facilities, reform of existing rate structures, and operation of special management districts; and

(D) in cooperation with the Administrator, provide information and guidance to communities in issues relating to construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(b) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall work with the Administrator, the Secretary of Agriculture, and other Federal agencies in the implementation of this section.

AUTHORIZATION

SEC. 208. There is hereby authorized to be appropriated to the Secretary for the purpose of carrying out this title the amount of $500,000,000 for each of the five fiscal years beginning with fiscal year 1992.

TITLE III—FINANCING OF PUBLIC OWNED TREATMENT WORKS

FINANCING OF PUBLICLY OWNED TREATMENT WORKS THAT HAVE RECEIVED GRANT FUNDS

SEC. 301. (a) IN GENERAL.—Section 201 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1281) is amended by adding at the end thereof the following subsection:

"(q)(1) Notwithstanding any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, acting in accordance with the provisions of this subsection, issue debt with respect to a publicly owned treatment works that has received financial assistance of any kind under this Act and may pledge, as security for repayment of such debt obligation, revenues realized from the operation of the publicly owned treatment works, subject to the prior payment of the costs of proper operation and maintenance thereof. Such debt

issued in accordance with this subsection shall not be considered (A) to commingle Federal and private interests in the publicly owned treatment works; (B) to disturb public use and possession thereof; (C) to improperly dispose of public interests therein; or (D) otherwise to breach the terms of the grant or financial assistance made thereto or to necessitate the repayment of same (or any portion thereof) to the United States Government.

"(2) This subsection shall apply only if at least 95 percent of the proceeds of the debt issuance will be used for: (A) the construction portion of a program for the rehabilitation or expansion of the publicly owned treatment works, provided that such treatment works, as rehabilitated or expanded, will conform to or exceed any design specifications and effluent limitations made applicable to it by any statute, regulation or agreement, including those contained in the original grant agreement and in the permit issued pursuant to section 402 of this Act for such works; or (B) the establishment of dedicated funds, trust accounts or other financial mechanisms to subsidize or stabilize rates, provide for equipment repair or replacement or for such other uses as may have demonstrable benefit to the rate payers of the treatment works.

"(3) This subsection shall not apply unless the owner of the treatment works with respect to which debt issuance is contemplated pursuant to this subsection obtains, from the chief administrative officer of the agency or department of the State responsible for administering the State water pollution control revolving fund pursuant to section 603(b) of this Act (hereinafter referred to as the "State Administrator") in the State in which such treatment works is located, a prior determination that such issuance will be in compliance with the requirements of paragraph (2) of this subsection.

"(4) The owner of a treatment works with respect to which debt issuance is contemplated pursuant to this subsection shall submit for the approval of the State Administrator, a statement describing the project or activities to which the contemplated financing will be applied, in detail sufficient to demonstrate that the contemplated debt issuance will be in compliance with the requirements of paragraph (2) of this subsection. The owner of the treatment works may thereafter file an amended plan of financing to comply with such notice.

"(5) The Administrator shall promulgate such regulations and guidelines as are necessary to carry out this subsection.".

(b) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this title.

AUTHORITY OF STATE REVOLVING FUNDS TO GUARANTEE LOCAL DEBT OBLIGATIONS

SEC. 302. (a) IN GENERAL.—Section 603(d) of the Clean Water Act (33 U.S.C. 138(d)) is amended by deleting the "and" at the end of paragraph (6), deleting the period at the end of paragraph (7), and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following:

"(8) to guarantee, or purchase insurance or letters of credit for, local obligations for equipment, facilities or plants to be used in conjunction with or in proximity to treatment works in operation at the time such a guarantee is made, provided such equipment, facilities, or plants are procured pursuant to a purchase contract, lease or service contract arrangement with a term at least equal to the estimated life of the subject equipment, facilities, or plants, and the full cost thereof is amortized during said term.".

(b) AMENDMENT.—Section 603 of the Clean Water Act (33 U.S.C. 1383) is amended by adding at the end thereof the following:

"(i) Nothing in this Act, or any regulation or any condition of any grant or financial assistance thereunder, shall prohibit the owner of a publicly owned treatment works from granting a security interest in any equipment, facilities, or plants procured pursuant to obligations which have been guaranteed or insured under the authority of paragraph (8) of subsection (d). Arrangements made in compliance with such paragraph (8) shall not be considered (1) to commingle Federal and private interests in publicly owned treatment works; (2) to disturb public use and possession thereof; (3) to improperly dispose or encumber public interests therein; or, (4) otherwise to breach the terms of any grant or other financial assistance (including, without limitation, assistance pursuant to this Act) to publicly owned treatment works of the type hereinabove referred to.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 303. SECURITY.—Nothing in this title shall be construed to provide any new authority for the owner of a federally-funded, publicly-owned wastewater treatment works to offer the physical plant, facilities, or equipment of such treatment works as security for any debt obligation issued pursuant to this Act.

GENERAL STATEMENT

There is growing evidence that small communities face especially difficult problems in financing the development of basic facilities for the protection of the environment and public health. The proposed legislation, titled the "Small Community Environmental Infrastructure Assistance Act of 1990" (S. 2184) would provide financial and technical assistance for developing environmental facilities

(e.g. drinking water, sewage treatment, solid waste disposal) in small communities.

BACKGROUND INFORMATION

A. *EPA Study of Small Communities.*—Late in 1988, EPA published a report assessing the impact of existing and proposed environmental requirements on municipalities, small business and agriculture ("Municipalities, Small Business, and Agriculture—The Challenge of Meeting Environmental Responsibilities").

According to the report, municipalities play a major role in providing environmental services, including sewage treatment, drinking water, and solid waste disposal. New requirements relating to stormwater, underground tanks, asbestos in schools, and drinking water treatment will expand these responsibilities. EPA concluded:

> Most municipalities will be able to meet the expected increase in environmental expenses and still remain financially sound. The municipalities most likely to experience difficulties will be those with populations of 2,500 or less.

In communities under 50,000, environmental services require 21.1 percent of financial resources, while in communities of 50,000–250,000 and over 250,000, environmental services require only 15.8 percent and 14 percent respectively.

Small communities (under 2,500 population) face the highest increase in average annual environmental service costs (e.g. a projected increase of $170 per year, compared to $80–$90 in communities between 2,500 and 250,000). This increase for small communities translates to a relatively larger increase as a percent of household income, because incomes are generally lower in small communities (e.g. 0.7 percent increase for households in small communities but 0.2–.4 percent increase for communities of 2,500 to 250,000).

EPA also assessed the expected increases in environmental user fees and concluded—

> Most of the municipalities that would experience the largest overall percentage increase in fees are the smallest municipalities . . . The user fees of 20 percent of the municipalities under 2,500 persons may rise over 100 percent above current levels by 1996 . . . Many of the households that are expected to experience initial "rate shocks" when confronted with rising user fees in communities having fewer than 2,500 persons.

In addition, EPA examined the relative access of small and large communities to various financing options. The study concluded—

> Between 21 percent and 30 percent of communities under 2,500 persons may have difficulty using revenue bonds, general obligation bonds, and loans because of the high cost of some individual regulations and the cumulative costs of recent legislative requirements . . . and the limited margin for expanding financial obligations in small communities due to existing demands for environmental and other infrastructure services . . .

EPA noted that small communities may face additional problems in financing environmental projects, including lack of economies of scale, poor management, and limited access to technical services. . . .

B. *Office of Technology Assessment.*—In March of this year, the Congressional Office of Technology Assessment issued a report titled "Rebuilding the Foundations: A Special Report on State and Local Public Works Financing and Management." The report confirms the basic analysis in the above-mentioned EPA report that lack of environmental infrastructure is a serious problem and that small communities face special problems in financing public works facilities. OTA concludes that—

> . . . benefit based and private sector strategies are not appropriate or workable in most small, rural and low growth areas. This is an especially severe problem for funding environmental public works, since they lack substantial Federal or State support . . . Many such communities need additional technical and management expertise as well.

OTA further concludes that—

> . . . without stepped up State and Federal assistance, noncompliance with EPA standards is a likely outcome for districts which cannot generate adequate funds.

C. *Other Studies.*—Several other studies identify or address the problem of financing environmental services in small communities.

There is strong evidence of the need for improved drinking water systems. The National Council on Public Works Improvement addressed this issue as part of a February 1988 report, "Fragile Foundations: A Report on America's Public Works," stating—

> A national problem does exist for small water systems . . . small water systems operate on a marginal basis, with inadequate resources—operational and managerial—to correct existing deficiencies.

A 1987 report by the National Council ("Problems in Financing and Managing Small Public Works") concluded—

> There is an abundant supply of information on the problems and successes of large urban water systems. However, there is relatively little knowledge about the plight of small, rural water systems . . . The small system problem in the United States is probably more severe since many small systems lack adequate water treatment equipment or the necessary operational skills to protect public health.

A report by the Congressional Budget Office ("Financing Municipal Water Sypply Systems"; May 1987) indicates that annual capital spending for local drinking water supplies will be 11 percent less per capita from 1984–2000 than it was from 1977 to 1983. In addition, the per capita costs of water systems are seven times greater for small communities than for large communities, according to the report.

Lack of financial resources for environmental services in small communities shows up in compliance data. EPA reports that small drinking water systems serve only 8 percent of the population, but account for 93 percent of drinking water standards violations and 94 percent of monitoring/reporting violations.

An EPA study of drinking water system compliance ("Ensuring the Viability of Small Drinking Water Systems"; May, 1989) concluded—

> Plagued by personnel and infrastructure problems, many small systems are unable to meet the challenges of regulations mandated by the 1986 Safe Drinking Water Act amendments. Underlying their difficulties are a lack of financial capacity, technical and management capacity, and information about the regulations.

This problem can be expected to become more significant as new regulations required by the 1986 amendments to the Safe Drinking Water Act, including requirements for disinfection and filtration, take effect in the next few years.

In a soon to be released report, EPA estimates the cost of compliance with new regulations for some 60,000 water systems under 3,300 users (including trailer parks, homeowner associations, small municipaliites, etc.) at $5 billion. The costs to the 6,000 incorporated communities under 3,300 system users is about $500 million. Some 400 of these systems will face major costs on the order of $40–$50 million, or per person user charge increases of up to $500 per year.

EPA prepares a biennial assessment of national needs for sewage treatment. Of the total need for some $83 billion in additional facilities, EPA estimates that almost $12 billion is in communities under 10,000 population.

Data on solid waste disposal costs is sketchy. EPA estimates total cost of municipal compliance with RCRA solid waste requirements at about $880 million. Most of these costs are for upgrades of large landfills serving large communities. While only a small part of this total cost is associated with small communities, the cost per ton tends to be much higher in smaller communities.

D. *Proposed Legislation.*—A number of bills were introduced in the 101st Congress responding to the growing evidence of problems in financing environmental infrastructure in small communities. The following bills addressing environmental infrastructure were referred to the Committee in this Congress—

—S. 1296 (Senator Burdick) established State revolving loan funds to assist small communities with financing drinking water supply projects related to infrastructure. It also establishes a program of technical assistance to help those communities manage systems.

—S. 2621 (Senator Moynihan) provided for State Public Works Funds to assist in developing environmental infrastructure in financially limited small and medium sized communities and directs the Crops of Engineers to assist in the construction of such facilities.

—S. 1331 (Senator Bentsen) established State revolving loan funds to provide loans and grants to assist small, disadvan-

taged communities in construction of water supply and sewage treatment facilities. Senator Bentsen is especially concerned about water and sewer services for the "colonias" area along the Texas border.

—S. 2184 (Senator Baucus) established State revolving loan funds to assist small communities in financing wastewater, drinking water and solid waste facilities. The bill also provides grants to assist small communities which are disadvantaged.

—S. 1514 (Senator Bradley) encouraged private financing of wastewater treatment facilities.

SECTION-BY-SECTION ANALYSIS

The reported bill is based on the several bills introduced in the 101st Congress addressing small community environmental facility issues and comment on the bills by interested parties.

A section-by section description of the bill follows—

Section 1. Short Title and Table of Contents.—This Act may be called the "Small Community Environmental Infrastructure Assistance Act of 1990."

Section 2. Finding.—The Congress finds that small communities face special problems in financing environmental facilities, that residents of small communities spend a larger share of income for environmental services that do residents of large communities, and that the Federal Government should take a more active role in providing financial and technical assistance to small communities in constructing environmental infrastructure.

Section 3. Purpose.—The purposes of this Act are to create State revolving funds to provide loans and grants assist small communities in financing environmental infrastructure, to direct the U.S. Army Corps of Engineers to construct environmental facilities for economically distressed communities, to expand Federal technical assistance to small communities, and to facilitate private investment in wastewater treatment facilities.

Section 4. Definitions.—Key terms used in the act are defined.

Title I—Small Community Environmental Infrastructure Assistance

Section 101. Grants to States.—The EPA is to make grants to States to establish pollution control revolving funds to assist small communities in financing sewage, drinking water, and solid waste facility construction, and compliance with underground tank regulations. Payment schedules, allotment formula, and procedures for reallotment are specified.

Section 102. Small Community Environmental Infrastructure Revolving funds.—States are to establish revolving funds which meet the conditions of this Act, including provision of a 25 percent State match for Federal funds, obligation of funds promptly, and assurance of proper accounting. Assistance to be provided by the fund may include loans, 75 percent grants to disadvantaged communities, purchase of insurance, and other assistance. Assistance may be provided to eligible small communities in which facilities are publicly owned or investor owned.

Section 103. Intended Use Plan.—States are to develop an annual plan identifying the intended uses of monies in the fund.

Section 104. Audits, Reports and Fiscal Controls.—States are to provide for appropriate fiscal controls and audits and provide reports to the EPA.

Section 105. Small Community Environmental Infrastructure Technical Assistance and Outreach.—EPA is to establish an Office of Small Community Environmental Assistance to provide technical assistance to small communities in financing of environmental projects and, in conjunction with the Corps of Engineers, assist small communities in improving systems operations.

Section 106. Authorizations.—A total of $2 billion is authorized over 5 years ($200, $300, $500, $500, and $500 million) to carry out this title. A small percentage of such funds are set-aside to support technical assistance programs.

Title II—Environmental Infrastructure Facilities for Economically Distressed Areas

Section 201. Administration.—The U.S. Army Corps of Engineers is to establish an Office of Community Environmental Infrastructure Assistance and administer the authorities of this title.

Section 202. Eligible Environmental Infrastructure Projects.—Projects eligible for assistance under this title include construction of wastewater treatment facilities, safe drinking water systems, and solid waste disposal facilities. Projects are to be located in economically distressed areas and serve less than 25,000 persons.

Section 203. State Environmental Infrastructure Priority Project Plans.—Governors may submit to the Secretary an annual plan identifying economically distressed areas in the State, identifying eligible projects in the State, and providing a priority ranking of such projects.

Section 204. Economically Distressed Area Environmental Infrastructure Assistance Plan.—The Secretary is to develop an annual plan describing activities to implement this title and listing projects submitted by States in priority order for funding in that year.

Section 205. Local Cooperation Agreements.—The Secretary may enter into local cooperation agreements with communities to provide for the planning, design, and construction of eligible environmental infrastructure projects. Communities are to pay 10 percent of project costs. Projects are to be designed to be consistent with requirements of other environmental statutes and project design guidelines developed by the EPA.

Section 206. Project Design Guidelines.—The Administrator of EPA is to develop, within 24 months of the date of enactment of this Act, guidelines for the design, engineering and construction of environmental infrastructure projects.

Section 207. Economically Distressed Area Technical Assistance and Outreach.—The Corps of Engineers is to establish an Office of Environmental Infrastructure Assistance to assist small communities in managing projects pursuant to this title and assisting communities in development of environmental facilities.

Section 208. Authorization.—There is authorized to be appropriated to implement this title a total of $2.5 billion for the five year period beginning in fiscal year 1992.

Title III—Financing of Publicly Owned Treatment Works

Section 301. Financing of Publicly Owned Treatment Works That Have Received Grant Funds.—This section would facilitate the role of the private sector in financing sewage treatment facilities by allowing the issuance of debt backed by future POTW operating revenues without requiring the repayment of prior Federal grants.

Section 302. Authority of State Revolving Funds to Guarantee Local Debt Obligations.—This section would permit a State revolving loan fund to guarantee or purchase insurance or letters of credit in order to secure payment of local obligations incurred in connection with certain types of public-private partnerships.

HEARINGS

The Environment and Public Works Committee held a full Committee hearing on bills related to small community environmental financing on May 15.

Witnesses at the hearing included the EPA, the Army Corps of Engineers, the Office of Technology Assessment, the Council of Infrastructure Financing Agencies, the Association of State and Interstate Water Pollution Control Administrators, and the National Rural Water Association. Other witnesses included the National Association of Towns and Townships, the National League of Cities, the Midwest Assistance Program, and the Association of State Drinking Water Administrators.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

The Committee on Environment and Public Works considered S. 2184 at a mark-up on October 4, 1990 and approved the bill by voice vote. No rollcall votes were taken with regard to the bill.

REGULATORY IMPACT

In compliance with rule 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory effect of the reported bill: It is not expected that the reported bill will impose any regulatory impact.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment and Control Act requires that each report contain a statement of the cost of the bill prepared by the Congressional Budget Office. That report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 1990.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2184, the Small Community Environmental Infrastructure Assistance Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2184.

2. Bill title: The Small Community Environmental Infrastructure Assistance Act of 1990.

3. Bill status: As amended and ordered reported by the Senate Committee on Environment and Public Works on October 4, 1990.

4. Bill purpose: The bill would authorize state loan and grant funds to assist small communities in financing wastewater treatment, drinking water, and solid waste disposal facilities. It also would direct the Army Corps of Engineers to construct such facilities in economically distressed areas. In addition, S. 2184 would authorize the owners of publicly owned treatment works that have received federal funds to issue debt and to use the revenues from the operation of the treatment works as security for repayment of such debt obligations.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level		705	808	1,013	1,013
Estimated outlays		35	160	395	605

The costs of this bill fall within budget function 300.

Basis of estimate: This estimate assumes that the full amounts authorized would be appropriated for each fiscal year. Outlays have been estimated based on historical spending pattern for similar programs.

Title I of the bill would authorize $200 million for 1992, $300 million for 1993, and $500 million for 1994–1996 to make grants to the small community environmental infrastructure revolving funds authorized by the bill. In addition to the amounts authorized for grants to the small community revolving funds, CBO estimates that about $40 million would be required over the 1992–1995 period for EPA to administer the grants and to provide information and guidance to small communities applying for funding.

Title II would authorize the appropriation of $500 million annually from 1992–1996 to establish an Office of Community Environmental Infrastructure Assistance within the Army Corps of Engineers. The office would be authorized to construct wastewater treatment works, public water systems and solid waste management facilities for eligible small communities.

6. Estimated cost to State and local governments: The bill would require each state to deposit into the state's small community environmental infrastructure revolving fund an amount of state moneys equal to at least 25 percent of the total amount of all grants which will be made to the state with federal funds. We estimate state contributions would amount to about $2 million in 1992, and increase to $58 million by 1995. Under this bill, loans made by the state revolving funds would have to be repaid to the state fund, with interest, beginning within 3 years of a project's completion. CBO expects that receipts from loan repayments would commence after the 5-year time-frame of this cost estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Kim Cawley and Theresa Gullo.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are to be indicated in this report. The reported bill makes no changes in existing law.

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